

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:12CR171
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	UNITED STATES OF AMERICA'S
)	NOTICE OF DISCOVERY
JOHN W. MOORHEAD, II,)	PRODUCTION PURSUANT TO
)	RULE 16 OF THE FEDERAL RULES
Defendant.)	OF CRIMINAL PROCEDURE
)	AND REQUEST FOR RECIPROCAL
)	<u>DISCOVERY</u>

Now comes the United States of America, by its counsel, Steven M. Dettelbach, United States Attorney, and Robert W. Kern and Chelsea Rice, Assistant U.S. Attorneys, and hereby gives notice that copies of the following were produced to counsel for the defendant, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, on May 4, 2012, by mailing a copy, postage prepaid, to Attorney Kirk Migdal, 411 Wolf Ledges Parkway, Suite 400, Akron, Ohio 44311:

1. A stipulation signed by the defendant, his counsel, and government counsel;
2. Two CD-R disks containing a copy of defendant's Internet website as it existed on April 9, 2007 and July 5, 2007;
3. Copies of Homeland Security reports of investigation (ROIs) dated 10/10/06; 10/24/06; 11/20/06; 12/22/06; 2/27/07; 7/12/07; 7/23/07 (2 reports); 8/13/07; 8/28/07 (2 reports); 10/24/07; 12/6/07; 2/25/08; 3/31/08; 6/10/08; 11/26/08; 1/22/09; 1/23/09 (2 reports); 2/13/09; and 2/24/09;

4. Photographs of modification chip purchased from defendant dated 10/24/06 and 7/23/07;
5. Letters of review of modification chip from ESA dated 5/24/07 and 7/23/07;
6. Nintendo expert report concerning analysis of evidence;
7. Homeland Security SEACATS evidence inventory reports (2 reports);
8. Copy of search warrant (w/o affidavit or attachments) including inventory return.

A copy of the defendant's prior record known to the government was provided by pretrial services. The government has no additional information regarding the defendant's prior record.

Additionally, the search warrant affidavit filed in support of the search warrant executed at defendant's residence on 8/1/07 was filed under seal. Counsel for the government has requested that the affidavit be unsealed. A copy of the search warrant affidavit and attachments will be provided to defense counsel as soon as the unsealing occurs.

Finally, the United States is in possession of bank records received pursuant to grand jury subpoenas issued in connection with this case. Prior to trial, and at the convenience of defense counsel, the United States will permit inspection, copying, and photographing of these materials.

EXCULPATORY EVIDENCE

The attorney for the government has no knowledge of exculpatory evidence material to the (1) guilt or innocence of defendant, or (2) punishment.

Further requests for information made in defendant's motion are not properly within the scope of pretrial discovery absent a specific showing that such disclosure is both material to the preparation of the defendant's case and reasonable in light of the circumstances. United States v.

Sclamo, 578 F.2d 288 (1st Cir. 1978); United States v. Murphy, 480 F.2d 256, 259 (1st Cir.), cert. denied, 414 U.S. 912 (1973).

REQUEST FOR RECIPROCAL DISCOVERY

Having complied with its obligations under Rule 16(a) of the Federal Rules of Criminal Procedure, the United States hereby requests that each defendant produce all information, documents or other evidence subject to disclosure by a defendant under Rule 16(b) of the Federal Rules of Criminal Procedure. This request should be considered a continuing request by the United States.

Respectfully submitted,

STEVEN M. DETTELBACH
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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2012 a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Chelsea S. Rice
Chelsea S. Rice
Assistant U.S. Attorney